

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

PABLO CABRERA,)	4:05CV3121
)	
Plaintiff,)	
)	
vs.)	MEMORANDUM
)	AND ORDER
DR. JANSSEN WILLIAMS and)	
CORRECTIONAL MEDICAL)	
SERVICES,)	
)	
Defendants.)	

Plaintiff’s appointed counsel have filed an Amended Complaint (filing 103) without following the procedures set forth in Nebraska Civil Rule 15.1. In Plaintiff’s Motion for Leave to Amend Complaint (filing 105)—filed five days *after* the proposed Amended Complaint itself—counsel appear to argue that because they gave notice of their intent to file an Amended Complaint in their Motion for Court-Appointed Counsel (filing 92), which was granted, the court should allow them to file an Amended Complaint.

I shall deny Plaintiff’s Motion for Leave to Amend Complaint (filing 105) because (1) this case is more than three years old; (2) Plaintiff’s now-appointed counsel originally entered this case on a retained basis on November 19, 2007, and have admitted that they “are familiar with the facts, have investigated the claims, attended to depositions and other discovery” (filing 92), yet counsel did not move to amend the Complaint until their response to Defendants’ Motion for Summary Judgment (filing 99) was overdue¹; and (3) under these circumstances, “justice” does not “so require[]” that leave to amend be granted, Fed. R. Civ. P. 15(a)(2).

¹On the court’s own motion, Plaintiff’s counsel was granted additional time to respond to Defendants’ Motion for Summary Judgment. (Filing 102.) It was during this extra response time that Plaintiff’s counsel filed the Amended Complaint.

Accordingly,

IT IS ORDERED that Plaintiff's Motion for Leave to Amend Complaint (filing 105) is denied.

July 29, 2008.

BY THE COURT:
s/ Richard G. Kopf
United States District Judge